IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

RUSTIN G. JACKSON)	
)	
Plaintiff,)	
)	
v.)	
)	No. #3:04-cv-344
STATE OF TENNESSEE, ET AL.)	VARLAN/SHIRLEY
)	
Defendants.)	

OPPOSITION AND RESPONSE OF DEFENDANTS DARREL MONGAR, DUSTIN ROSE AND CAMPBELL COUNTY TO PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

Comes Defendants, Darrel Mongar, Dustin Rose and Campbell County ("the Campbell County Defendants"), and oppose Plaintiff's Request for Entry of Default by showing that Campbell County Defendants filed an Answer to Plaintiff's Second Amended Complaint through the Court's electronic filing system on April 26, 2005. In the unlikely event Plaintiff did not receive this document (nor checked with the Court Clerk's Office either verbally, in writing or through electronic means), the Campbell County Defendants advise the Court that a second copy of the Answer to Plaintiff's Second Amended Complaint has been mailed to Rustin G. Jackson at 108 Chapman Lane, Jacksboro, Tennessee 37757 by certified mail, return receipt requested, on the date of the filing of this response.

Since the Campbell County Defendants herein filed an Answer to Plaintiff's Second Amended Complaint, and Plaintiff has failed to exercise due diligence in acknowledging receipt of same or ascertaining from the Clerk's office the filing of same, the Court should deny Plaintiff's Motion for Entry of Default as to these Defendants. Further, it is respectfully requested that Plaintiff be admonished to exercise due diligence or at least

contacting counsel for the Campbell County Defendants in writing before filing such requests as to parties who have already appeared in the care.

Even assuming Plaintiff somehow did not receive a copy of these Defendants' Answer to Plaintiff's Second Amended Complaint at the time said Answer was filed, a simple letter to Defendants' counsel from Plaintiff would have obviated this use of the Court's resources and the expense to these Defendants.

Respectfully submitted this 15th day of July, 2005.

DARRELL MONGAR, DUSTIN ROSE AND CAMPBELL COUNTY

s/John C. Duffy, BPR #010424

P. O. Box 131 Knoxville, Tennessee 37901-0131 (865) 637-1700

CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2005, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U. S. mail. Parties may access this filing through the Court's electronic filing system.

Rustin G. Jackson, via Certified Mail 108 Chapman Lane Jacksboro, TN 37757

s/John C. Duffy, BPR #010424

P. O. Box 131 Knoxville, Tennessee 37901-0131 (865) 637-1700